

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0075**

In re the Marriage of:

Aane Serge-Rinehardt Fosse, petitioner,
Appellant,

vs.

Denise Anne Fosse,
Respondent.

**Filed January 17, 2023
Affirmed
Jesson, Judge**

Ramsey County District Court
File No. 62-FA-13-339

Margaret M. Murphy, Windhorse Law, P.A., Oakdale, Minnesota (for appellant)

Sarah A. Peterson, Collins, Buckley, Sauntry & Haugh, P.L.L.P., St. Paul, Minnesota (for respondent)

Considered and decided by Johnson, Presiding Judge; Segal, Chief Judge; and
Jesson, Judge.

NONPRECEDENTIAL OPINION

JESSON, Judge

Appellant Aäne Serge-Rinehardt Fosse (father)¹ appeals the district court's grant of respondent Denise Anne Fosse's (mother) motion to suspend father's parenting time. Because the district court did not abuse its discretion when it suspended father's parenting time until child is ready to initiate contact or child's therapist recommends reunification therapy with father, we affirm.

DECISION

The district court has broad discretion in deciding parenting-time questions, and this court will not reverse a district court's decision absent an abuse of discretion. *Shearer v. Shearer*, 891 N.W.2d 72, 75 (Minn. App. 2017). "A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or delivering a decision that is against logic and the facts on record." *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022) (quoting *Bender v. Bernhard*, 971 N.W.2d 257, 262 (Minn. 2022)). We will uphold a district court's findings of fact, on which a parenting-time decision is based, unless they are clearly erroneous. *Griffin v. Van Griffin*, 267 N.W.2d 733, 735 (Minn. 1978); see *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221-22 (Minn. 2021) (discussing clear error standard of review); *Vangsness v. Vangsness*, 607 N.W.2d 468, 472 (Minn. App. 2000) (same). The district

¹ The case caption in the district court identified appellant as Aane Serge-Rinehardt Fosse. But appellant is identified in his appellate brief as "Aäne Serge-Rinehardt Fosse." The caption of this opinion conforms to the caption used in district court. See Minn. R. Civ. App. P. 143.01. But we use appellant's preferred name throughout the body of the opinion.

court applies the best-interests factors to determine whether to suspend parenting time.² Minn. Stat. § 518.17, subd. 1(a) (2022).

In its November 2021 order, the district court analyzed the best-interests factors and made detailed factual findings.³ These findings are robust and supported by the record.

² Father argued at oral argument that the endangerment standard applies to the district court's order suspending his parenting time because father's parenting time with child was effectively cut off. But because this argument was not supported with any legal argument in his brief, we decline to consider this argument. *See State Dep't of Lab. & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997) (explaining that appellate courts decline to reach issues that are inadequately briefed). And though the record from the evidentiary hearing is limited, father did not make this argument before the district court either. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (stating appellate courts do not address issues raised for the first time on appeal).

³ The 12 best-interests factors are as follows: (1) a child's physical, emotional, cultural, spiritual, and other needs, and the effect of the proposed arrangements on the child's needs and development; (2) any special medical, mental health, developmental disability, or educational needs that the child may have that may require special parenting arrangements or access to recommended services; (3) the reasonable preference of the child, if the court deems the child to be of sufficient ability, age, and maturity to express an independent, reliable preference; (4) whether domestic abuse, as defined in Minnesota Statutes section 518B.01, subdivision 2(a), has occurred in the parents' or either parent's household or relationship; the nature and context of the domestic abuse; and the implications of the domestic abuse for parenting and for the child's safety, well-being, and developmental needs; (5) any physical, mental, or chemical health issue of a parent that affects the child's safety or developmental needs; (6) the history and nature of each parent's participation in providing care for the child; (7) the willingness and ability of each parent to provide ongoing care for the child; to meet the child's ongoing developmental, emotional, spiritual, and cultural needs; and to maintain consistency and follow through with parenting time; (8) the effect on the child's well-being and development of changes to home, school, and community; (9) the effect of the proposed arrangements on the ongoing relationships between the child and each parent, siblings, and other significant persons in the child's life; (10) the benefit to the child in maximizing parenting time with both parents and the detriment to the child in limiting parenting time with either parent; (11) except in cases in which domestic abuse as described in clause (4) has occurred, the disposition of each parent to support the child's relationship with the other parent and to encourage and permit frequent and continuing contact between the child and the other parent; and (12) the willingness and ability of parents to cooperate in the rearing of their child; to maximize

First, the district court found that credible evidence was presented that child was sexually abused by father or adamantly believes she was sexually abused by father. This finding is supported by three reports: the guardian ad litem's report, which discussed child's disclosures of sexual abuse to her therapist, a Ramsey County Social Services report that found that a preponderance of the evidence supported a finding of sexual abuse, and the neutral child specialist's report, which described child's disclosure of multiple instances of sexual abuse during interviews with the specialist and concluded that child was credible.⁴

Second, child's belief that she was sexually abused, the district court determined, has further created a need for ongoing therapy for child and a parenting schedule consistent with child's therapeutic and mental health needs. The neutral child specialist's report supports this finding, recommending ongoing counseling and therapy for child, and this is consistent with the recommendations made in the guardian ad litem's report as well.

Further, the district court found that any contact with father is likely to cause child significant psychological trauma and distress. This finding is supported by the record—the guardian ad litem's report and the neutral child specialist's report both indicate that child had suicidal ideation when reunification therapy with father was proposed. These findings support the district court's decision to suspend father's parenting time.

sharing information and minimize exposure of the child to parental conflict; and to utilize methods for resolving disputes regarding any major decision concerning the life of the child. Minn. Stat. § 518.17, subd. 1(a).

⁴ The district court granted father's request for the appointment of a neutral child specialist to review child's therapy records and make recommendations. The neutral child specialist released two reports, one in September 2019 and one in February 2020.

The district court addressed all twelve best-interests factors and concluded that an overwhelming number either favored mother or were neutral. The above analysis underlies the determinations that favored mother. Because the district court's finding that child's belief that she was sexually abused by father makes any contact with father likely to cause child significant psychological trauma and distress is supported by the record, the district court's findings were both adequate and supported by the record, so the district court did not abuse its discretion. *Shearer*, 891 N.W.2d at 75.

The parenting-time statute provides a rebuttable presumption that a parent is entitled to at least 25% of the parenting time for the child. Minn. Stat. § 518.175, subd. 1(g) (2022). Here, the district court found that the presumption was rebutted by the best-interests findings. Parenting-time allocations that fall below the 25% presumption can be justified by reasons related to the child's best interests and considerations of what is feasible given the circumstances of the parties. *Hagen v. Schirmers*, 783 N.W.2d 212, 218 (Minn. App. 2010). Because the district court's best-interests findings are supported by the record, this determination also falls within the discretion afforded to the district court.

Still, father alleges that the district court failed to consider parental alienation to be the source of child's disclosure of sexual abuse.⁵ But the district court referenced father's

⁵ Parental alienation involves behaviors by a parent, whether conscious or unconscious, that could disturb the relationship between a child and the other parent. *See Amarreh v. Amarreh*, 918 N.W.2d 228, 232 (Minn. App. 2018) (discussing parental alienation), *rev. denied* (Minn. Oct. 24, 2018). These behaviors can include cutting off the other parent's access to information about the child, denying the other parent information about the child's activities, or access to the child's medical or school records, and limiting the other parent's contact with the child by refusing to allow telephone conversations or

expert's report on parental alienation and the expert's testimony in its order and determined that "the evidence submitted at trial shows a consistent presentation by all professionals that have had contact with the child that she is credible and not coached." And appellate courts defer to the district court's credibility determinations. *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988). Further, while father points out that child has anxiety, is not performing well in school, and participates in few activities outside of school, these considerations pale in comparison to the district court's findings that child's emotional wellbeing is endangered by contact with father. And these concerns will not necessarily be alleviated by increased parenting time with father at this time. Accordingly, the district court's decision to suspend father's parenting time until the child is ready to resume contact, or a therapist recommends reunification, is not an abuse of discretion.

In sum, because the district court made adequate findings supported by the record when it suspended father's parenting time, it did not abuse its discretion in granting mother's motion.

Affirmed.

visits. *Id.* Here, father alleges that mother has foiled all attempts at reunification, including convincing child that father sexually assaulted her.